

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA

v.

JOHN J. HAMILTON, JR.

Defendant.

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CRIMINAL NO. 05-876 (JLL)

**ORDER**

**LINARES**, District Judge.

Presently before the Court is the Government United States of America's ("Government") (1) renewed objection to *voir dire* questions 4, 23, 24, and 25 and (2) pre-trial motions as well as Defendant John J. Hamilton Jr.'s ("Defendant" or "Hamilton") (a) cross-motion *in limine*, (b) third motion *in limine*, and (c) motion to dismiss the indictment based on prosecutorial misconduct. The Court heard argument on these motions on September 17, 2008.

At oral argument, the Court also entertained applications from the Government (i) for a one-week adjournment of the trial, (ii) for information from counsel for Defendant regarding the use of Vincent Baker's ("Baker") prior convictions, and (iii) regarding the use of certain evidence under Federal Rule of Evidence 404(b). The Court further considered an application from Defendant to unseal certain records and compel the production of Brady and Jencks Act material. Having reviewed and considered the written submissions of the parties and heard oral argument,

**IT IS** on this 19th day of September, 2008,

**ORDERED** that the Government's renewed objection to *voir dire* questions 4, 23, 24 and 25 [CM/ECF docket no. 79] is hereby **DENIED**; and it is further

**ORDERED** that the Government's motion to preclude defense counsel from making representations during opening and closing statements that he does not intend to and/or fails to present at trial [CM/ECF docket nos. 89 and 90] is **GRANTED IN PART** to the extent that counsel for Defendant may only present evidence that is admissible in nature during his opening statement and **DENIED IN PART** without prejudice to the extent that said motion seeks to curtail closing summaries; said motion may be renewed at an appropriate time in accordance with the evidence presented, if necessary; and it is further

**ORDERED** that the Government's motion to preclude references to the prior trial [CM/ECF docket nos. 89 and 90] is hereby **GRANTED**; and it is further

**ORDERED** that the Government's motion to compel Defendant to disclose a list of possible witnesses no later than the *voir dire* [CM/ECF docket nos. 89 and 90] is hereby **GRANTED**; and it is further

**ORDERED** that decision on the Government's motion to preclude Defendant from referring to Defendant's offer to take a polygraph [CM/ECF docket nos. 89 and 90] is hereby **RESERVED**; and it is further

**ORDERED** that Defendant's cross-motion *in limine* to preclude the prosecution from reading transcripts of the first trial during opening statements [CM/ECF docket no. 94] is hereby **GRANTED**; and it is further

**ORDERED** that decision on the Defendant's third motion *in limine* to preclude Government witness Robert Steffer from offering lay opinion testimony as against Federal Rule of Evidence 701 [CM/ECF docket no. 98] is hereby **RESERVED**; and it is further

**ORDERED** that Defendant's motion to dismiss the indictment based on alleged prosecutorial misconduct [CM/ECF docket no. 99] is hereby **DENIED**; and it is further

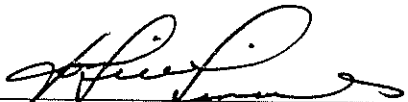
**ORDERED** that decision on the Government's application for a one week adjournment of the trial is hereby **RESERVED**; and it is further

**ORDERED** that the Government's application for disclosure of defense counsel's use of the prior convictions of Vincent Baker is hereby **GRANTED** inasmuch as defense counsel must disclose which convictions he intends to use prior to his direct examination of Baker; and it is further

**ORDERED** that the Government must submit a brief of no more than five (5) pages, single-spaced with respect to any evidence they seek to introduce under Federal Rule of Evidence 404(b) with any opposition thereto not to exceed two (2) pages, single-spaced; and it is further

**ORDERED** that Defendant's application to unseal the record and produce Brady and the Jencks Act materials is hereby **DENIED**.

**IT IS SO ORDERED.**

  
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Jose L. Linares  
United States District Judge